

MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

October 22, 1996

The Capital Projects and Bond Oversight Committee met on Tuesday, October 22, 1996, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senators Tom Buford, Bob Leeper, and Denny Nunnelley; Representatives Jim Maggard, Tommy Todd, and Jim Wayne.

Guests: Bill Hintze, Roger Burge, Allen Holt, Governor's Office for Policy and Management; Commissioner Armond Russ, Jim Abbott, Department for Facilities Management; Tom Howard, Kim Blitch, Office of Financial Management and Economic Analysis; Jim Arnett, Ken Houpp, Bonnie Howell, Finance and Administration Cabinet; Michael Rozow, Northern Kentucky Convention and Visitors Bureau; Charles Wheeler, Northern Kentucky Convention Center; Rob Thrun, Kenton County Government; Dennis Langford, Labor Cabinet; Commissioner Billy Ray Smith, Bill Burnette, Department of Agriculture; Libby Jones, Purchase of Agricultural Conservation Easements (PACE) Program; Tony Sholar, Kentucky Chamber of Commerce; Melanie Bailey, Jody Curry, Natural Resources and Environmental Protection Cabinet; Debra Wash, Administrative Office of the Courts; Porter Dailey, Morehead State University; George DeBin, Ken Clevidence, Mary Allen, Mary New, University of Kentucky; Sherron Jackson, Council on Higher Education.

LRC Staff: Mary Lynn Collins, Pat Ingram, Scott Varland, Jonathan Downey, Jack Affeldt, Byron Costner, Karen Crabtree, Kristin Curry, Don Judy, Linda Kubala, Dan Risch, Charles Shirley, Jim Works.

Press: Mark Chellgren, Associated Press; Kentucky Educational Television.

2. The Finance and Administration Cabinet provided the quarterly status report on capital projects authorized by the last 2 General Assemblies.

3. The Administrative Office of the Courts (AOC) provided its quarterly status report on court construction and renovation projects. Chairman Damron said this is the first status report on local court construction and renovation projects. As a result of the 1996 General Assembly, there is a major effort underway to renovate and build new court facilities. While the projects are local projects built by local governments, annual rent payments by the state for the facilities are included in the statutory definition of capital projects and, as such, are under this Committee's jurisdiction. The AOC has indicated that they will provide the Committee these reports on a quarterly basis.

4. The Kentucky Lottery Corporation provided its monthly financial report for August 1996.

First on the agenda under New Business was an update on the Northern Kentucky Convention Center project. The project was authorized and funded by the 1992, 1995 (Special Session), and 1996 General Assemblies for a total of \$29 million in state funds. The facility is to be owned by the Commonwealth and operated and maintained by the Northern Kentucky Convention Center Corporation. Michael Rozow, President of the Northern Kentucky Convention and Visitors Bureau, Charles Wheeler, Executive Director of the Northern Kentucky Regional Convention Center, and Rob Thrun, the Garage Project Manager in the Kenton County Government, were present to discuss the project, as well as Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management.

Mr. Wheeler said he joined the Convention Center in early June, with approximately 25 years of experience in the field, working with Hyatt Hotels and managing a public assembly facility for New York state government. He said a new promotional brochure just developed to assist in marketing the new Convention Center was provided to Committee members. This brochure, which shows the building in 3 dimensions, will be used to market the Center to potential clients. The 193,000 sq. ft. facility will have a 50,000 sq. ft. Exhibit Hall, as well as a 23,000 sq. ft. ballroom which can accommodate about 1,600 people for dinner or 2,000 for a general assembly. There will be 11 workshop spaces adjacent to it with 17,000 sq. ft. of lobby space attached. In conjunction with this project, a 320-room hotel is to be constructed over the top of an adjacent parking structure. The Center site is located near RiverCenter, one block from the Ohio River, in an area with a lot of ongoing development.

Mr. Wheeler said the outstanding issue now is land acquisition; the state is now in condemnation proceedings with the owner of the building site to establish the property's value. A nearby property recently sold so there is a comparable property to use in assessing the value of the Center's site. Funding of \$3,500,000 is set aside for land acquisition, and Mr. Wheeler said he is hopeful that the amount is more than will be needed for acquisition and some of those funds can be recaptured for construction.

Chairman Damron said the Finance and Administration Cabinet has a Memorandum of Agreement (MOA) with Kenton County for this project, and he asked if Finance is monitoring the agreement. Mr. Hintze said the project's governing structure was patterned on the structure of the Kentucky Center for the Arts in Louisville, and is being managed by the state to ensure compliance with the MOA.

Chairman Damron asked about the current bidding climate in Northern Kentucky. Mr. Wheeler said, based on conversation with project architects, it appears that bids are exceeding forecast by 4% to 5% so far. He said he provided members a project budget, prepared on September 30 by the state Division of Engineering, which is coordinating the project. He said the project includes a 4.91% contingency.

Mr. Hintze said when Governor Patton recommended to the 1996 General Assembly the additional \$3,000,000 for this project as part of the contingent projects to be funded from General Fund surplus, it was to address the lingering dispute over the value of the land and for amenities identified today. He said they cannot be sure until the bid is let, but so far the budget appears to be on target.

Representative Wayne said it was his understanding the MOA includes a commitment by the Kenton County Fiscal Court to build a parking garage adjacent to the Convention Center. Now, he said, the County plans to construct a new courthouse that will be attached to the garage. He asked if the state will actually end up paying for the parking garage, too, through rent payments for court space. Mr. Rob Thrun, the County Garage Project Manager, said the garage is proceeding as a separate project from the courthouse. The courthouse is in final programming and moving into the schematics design phase; after design is complete, the County and the Administrative Office of the Courts (AOC) will make a decision whether or not the scope is such that the project can proceed. The courthouse abuts the parking garage, and if the garage is not fully occupied by the Convention Center, the courthouse is a likely candidate to buy available parking spaces. However, he said, the parking garage is not dependent on

Representative Wayne said he understood one of the respondents to the Request for Proposals to design the garage was upset over the selection process. He asked if this issue is likely to end up in a lawsuit, perhaps delaying the garage construction. Mr. Wheeler said one bidder did file a letter of protest with Kenton County Fiscal Court. He said the Fiscal Court reviewed it and decided to take no further action regarding it. He said there has been no further correspondence or response from that bidder about any follow-up action.

Representative Maggard asked if updated revenue generation estimates are available. Mr. Wheeler said when the building is mature, \$21.3 million of direct spending is anticipated to be generated per year from the Convention Center.

In response to questions from Representative Maggard, Mr. Hintze said there are no plans for any additional state funds beyond the authorized \$29 million to be committed to construction of the Convention Center. He said the state project bonds are 20-year bonds that have already been sold (November 15, 1995), and revenues generated by the operation of the Convention Center are anticipated to fund its operating and personnel costs, so there will be no direct state subsidy of normal operations. Mr. Wheeler said a 1% increase in the local bed tax (for a total of 4%) is also committed to the Center's operations. Representative Maggard said this project seems like a win-win proposition and a great thing for Kentucky.

In response to questions from Senator Nunnelley, Mr. Hintze clarified that the \$3,000,000 authorized for the project by the 1996 General Assembly was not an allocation from the state's capital construction and equipment purchase contingency account, but, rather, was one of the 27 projects itemized as contingent appropriations from the General Fund surplus for the 1996 Fiscal Year.

Senator Nunnelley asked what commitments have been made from the capital construction and equipment purchase contingency account, and how much is now in the account. Mr. Hintze said the account, as of August 31, 1996, has an unobligated balance of \$12.9 million. He said the account was just replenished by an \$8 million appropriation from the 1996 General Assembly and it is in better shape than it has been historically. Senator Nunnelley asked if any of those funds are committed to projects. Mr. Hintze said several projects with substantial problems are in process that will likely draw from the account - one involves the Kentucky History Center project in Frankfort for an, as yet, unspecified amount that may be reported at the Committee's

Kentucky Convention Center would be eligible for assistance from the capital construction contingency account if the \$3,000,000 provided by the 1996 General Assembly were insufficient to construct the facility. Mr. Hintze said the project would be legally eligible for additional assistance, but that would be a policy and priority matter that would not occur unless there were a cost overrun that could not be dealt with in any other manner. He said no one has made any commitments from the contingency account or any other source for the project, and he was hopeful that none would be sought or needed. He said he was neither ruling the contingency account in or out as a fund source for the project; it was merely premature to make a judgment before bids are opened.

In response to questions from Representative Maggard, Mr. Hintze said the bid for the major portion of construction, including the biggest single expenditure for the general contractor, will be let during this interim. He said any cost overruns on the project should be known before July 1997.

Mr. Thrun, the Garage Project Manager, said the County has Corporex Companies under contract as developer for the garage, with CPX, a subsidiary of Corporex, as the general contractor, and KZF of Cincinnati as the architect. The size of the garage, 1,590 spaces, was based on a study done by Walker Associates who are parking consultants, and they derived a great deal of their input from the Coopers and Lybrand report on the Convention Center. It is anticipated that 95% of Convention Center events will use 700 spaces, with the remainder available for public and private users. The project is on schedule, in final design, with construction documents being generated. The general contractor is in the process of buying out some of the major subcontracts, and has acquired the concrete frame contract which is about 45% of the overall construction on a project such as this.

Mr. Thrun said garage construction is expected to begin in early January 1997 after the vacancy and demolition of several buildings, with an anticipated completion date in early May 1998. The Convention Center's completion date is July 1998. On July 1, 1998, according to the contract, liquidated damages will begin to be assessed if the garage is not completed. Mr. Thrun said documentation is being gathered for a December 1, 1996 sale of local bonds for the project. He said it is anticipated the garage will generate sufficient income from the Convention Center and other users, including a local transit bus station located on the first floor, to make the garage self-supporting and possibly generate additional income for other County projects.

Chairman Damron thanked the presenters for providing this update on the project at the Committee's request.

Next on the agenda were reports from the Finance and Administration Cabinet on 2 lease contract renewals to annual costs exceeding \$200,000. Chairman Damron said the lease renewals will require authorization by the 1998 General Assembly since, under the terms of renewal, they cross the \$200,000 threshold. Mr. Jim Abbott, Director, Division of Real Properties, said both of the existing lease contracts expired on June 30, 1996. Under the first lease contract, PR-3764, Leestown Partners provides 26,454 sq. ft. of office space for the Department of Public Advocacy at 100 Fair Oaks Lane, Frankfort. Under PR-3835, Mr. Jerry Ragland provides 31,210 sq. ft. of office space for the Division of Air Quality at 803 Schenkel Lane, Frankfort. Because in both instances the lessors indicated they wished to increase the rental rate for the existing leased space, the Division of Real Properties advertised to see if other acceptable lease space was available in Franklin County. In both cases, in addition to the current lessors, the only 2 other respondents offered space that was insufficient or otherwise unacceptable, so Real Properties opened negotiations with the 2 lessors. Because both properties required improvements to meet current agency needs, Real Properties judged that increases in the rental rates were acceptable. Under the lease renewal agreement, the rental rate per sq. ft. for PR-3764 increased from \$7.13 to \$8.15 for a new annual rental cost of \$215,600 (14% increase), with a 3-year term. The lease renewal for PR-3835 involved an increase in the rental rate per sq. ft. from \$6.12 to \$7.42 for a new annual rental cost of \$231,578 (21% increase), with a 2-year term.

Mr. Abbott said several factors are usually attributable to rate increases such as were sought by these 2 lessors. First, state lease contracts provide for no pass-through of inflation or other increased cost factors. Second, in both instances, the using agencies asked that improvements be made to the leased facilities.

Chairman Damron asked what the rate increases would be if annualized since the existing rates were put in place. Mr. Abbott said they would be increases of approximately 3% per year. Chairman Damron asked how much of the additional cost is attributable to facility improvements requested by the using agencies. Mr. Abbott said approximately 35¢-40¢ of the increase per sq. ft. is attributable to leasehold improvements for PR-3835. For PR-3764, he said, around 5¢-10¢ of the increase per sq. ft. is attributable to improvements. In both cases, the balance of the rate increases would generally be inflationary. He noted that for PR-3835, the lessor originally

new lease contracts exceeding \$200,000 will be required to be authorized by the 1998 General Assembly.

In a related matter, Representative Maggard said his understanding is that the state is not allowed to make a prior commitment to any contractor to occupy an office facility that the contractor proposes to construct. Mr. Abbott said that is correct. He also agreed the state has an established procedure it uses to advertise for space. Representative Maggard said he was disturbed that recent news articles had been premature in reporting that a state agency made a commitment to a contractor to occupy a facility the contractor was considering constructing. He said the state must advertise its desire to lease space, and any bidder may offer to lease the needed space to the state; the cost has to be at the going rate for that market area, and if the annual cost exceeds \$200,000, the lease has to be reported to this Committee for approval before execution of the lease contract. Representative Maggard said an agency may not tell a contractor it will pay \$9.00 per sq. ft. for a building to be constructed when the market rate for the area is \$7.00 per sq. ft.

Mr. George DeBin and Mr. Ken Clevidence of the University of Kentucky (UK) were present to request approval for an agency-funded cost overrun for the University Hospital's Cardiac Catheterization Renovation project. The project was authorized by the 1992 and 1994 General Assemblies at a total project scope of \$3,600,000 in Restricted Funds. Mr. DeBin said additional funds of \$250,000 (scope increase of 6.9%) are needed due to delays in the delivery of equipment and redesign of 3 Radiology rooms. The additional funds will come from Restricted Funds (hospital revenue), and the new total project scope is \$3,850,000. In response to a question from Chairman Damron, Mr. DeBin said there would be no negative impact on any other University project as a result of diversion of the University's funds to this purpose.

In light of UK's recent requests for 15% scope increases for several of its capital construction projects, Representative Wayne commended the University for limiting this scope increase to 6.9%. Mr. Clevidence said he understands the feeling of the Committee and, whenever possible, the University will identify the specific amounts needed to supplement projects. He noted that this project is under construction now; this increase is not a result of an overbid, but rather a change in technology, so this will be a change order and an amendment in design.

Representative Maggard made a motion to approve the scope increase for the

1. Kentucky Higher Education Student Loan Corp. (KHESLC) Insured Student Loan Revenue Bonds, 1996 Series A and B - with gross proceeds of \$27,500,000 - were approved by the Committee in August 1996. The proceeds will make funds available for new student loans at below market interest rates. The Series A "new money" bonds, with proceeds of \$25,000,000, sold at a variable interest rate with a 30-year term, subject to the alternative minimum tax (AMT). The Series B bonds, with proceeds of \$2,500,000 to be used to refund maturing bonds thereby extending the tax-exempt status of those securities, sold at a true interest cost of 5.2%, with a 7-year term, also subject to AMT. Both issues sold on September 10, 1996 by negotiated bid. Ratings for the bonds were Aaa and AAA. Principal and interest payments are insured by MBIA, and security is provided by the KHESLC's General Bond Resolution.

2. Kentucky Housing Corporation (KHC) Housing Revenue Bonds, 1996 Series C, D, E, and F - with gross proceeds of \$50,000,000 - were approved by the Committee at its August 1996 meeting as Series B, C, D, E, and F. One new taxable series plus 3 additional series of bonds that utilize existing refinancing provisions were issued to yield approximately \$49.5 million for the purchase of below market interest rate mortgages for first-time homebuyers in Kentucky. The Series C bonds converted \$1,500,000 of short-term securities issued earlier this year into long-term bonds. Interest earnings from the C bonds are subject to AMT. A total of \$15,355,000 of Series D (non-AMT) and \$23,130,000 of Series E (AMT) bonds were sold to acquire funds to redeem previously issued bonds and to gain the favorable tax provisions of those issues. The Series F bonds was a taxable "new money" bond sale of \$10,015,000.

The bonds sold on September 18, 1996 by negotiation. The arbitrage yield is 5.5% on Series C, and 6.16% for Series D, E, and F bonds. Series C maturity is on 7/1/2028, subject to redemption at the option of KHC. Series D and E maturities are on 7/1/2017 and 1/1/2028. Series F maturity is on 7/1/2010. Ratings were Aaa and AAA. The mortgage rate is a blended mortgage rate based on the different cost of funds from the 4 issues; the mortgage rate cannot exceed the yield on the bonds plus expenses allowed under the Internal Revenue Code.

Chairman Damron said updated monthly and weekly debt calendars were also provided by OFMEA for the Committee's information.

Next on the agenda under New Business was the monthly report from the Finance and Administration Cabinet. Bill Hintze, Governor's Office for Policy and Management,

Board, Jody Curry from the Natural Resources and Environmental Protection Cabinet, and Bill Burnette, Executive Director of the Office of Environmental Education and Outreach. Commissioner Smith said since the PACE program was created by the General Assembly, the Natural Resources Cabinet and the Department of Agriculture have worked together with the members of the PACE Board to promote the idea of preserving easement rights of prime farmland. One of the loudest concerns he heard while campaigning statewide for the Agricultural Commissioner office was the number of acres of prime farmland the Commonwealth was losing to industrial, commercial, and residential development. That remains to be a strong concern both nationally and statewide and is a concern of the Department of Agriculture and the PACE Board.

Commissioner Smith said the current administration is supporting efforts to seek federal matching funds from the Rural Economic Development Fund to provide seed money to get the project off the ground. He said on 2 past occasions the Natural Resources Cabinet and Department of Agriculture asked for General Assembly funding support for the program. He said PACE is grateful for the Governor's support and the support of the USDA through the Secretary of the Department of Agriculture and under the leadership of some Kentucky statesmen in obtaining this federal grant and its matching funds. Dr. Luther Hughes, head of the Agriculture Department at Western Kentucky University, is Chair of the PACE Board. This Board has been meeting on a regular basis for 2 years without any funding, but since it has been able to attain this federal funding, it asks for support for the state matching funds. He said he recognizes that \$800,000 is not going to buy the easements of a great deal of farmland, but through private investments and other concerns this will be a way to get the program started and he hopes to see it grow.

Ms. Jones thanked Commissioner Smith for his efforts on behalf of the program, and said she was honored to be present. She said the PACE Board members are very excited about creating a PACE program. Kentucky is the first southern state to do so, but such programs are very successful in the northern, western and northeastern areas of the US in putting a permanent protection on the nation's best soils - our most prime and productive farmland. Unfortunately, she said, we are losing the ability to produce on some of the best soils because of conversions; farmers make a business decision in their best interests, which is completely understandable, to sell their farms to the highest bidder. The PACE program gives the state the opportunity to purchase the development rights to that farm, allowing the farmer to either keep his land or to sell it to another farmer, allowing young farmers to come in and buy farm land at its true

land for the development rights; the farmer, his heirs, or assignees continue to farm the land or may sell it, but the land is committed perpetually to agriculture. As fast as the Commonwealth is losing its prime agricultural land to development, she said, this is very important for the future of agriculture in Kentucky.

Chairman Damron noted the project funding includes \$25,000 to be provided by a private donor. In light of recent Committee action requiring assurance that pledged private funds are actually available, Chairman Damron asked if such assurance is available here. Mr. Hintze said the state made hasty application for the federal grant funds because of a deadline, and identified appropriate sources of funds from within the state budget to provide the state match. This includes the \$350,000 from the capital construction and equipment purchase contingency account, which, he noted, comes off of the \$12.9 million figure he cited earlier for Senator Nunnolley. In addition, \$25,000 is identified from internal savings identified by the Department of Agriculture, which does not violate the non-diversionary clause in the state's budgetary statutes. He said the additional \$25,000 is to be provided from private fundraising efforts currently ongoing.

With respect to the agreement between the Committee and Finance Secretary McCarty that certification is to be provided of the availability of any pledged private funds for state projects, Mr. Hintze said such certification is not being made to the Committee at this time because the private fundraising efforts are ongoing. He said it is agreed that no state funds will be expended until such certification is available for the privately donated funds. When such certification is available, it will be provided to the Committee.

Commissioner Smith said on very short notice a letter went out from the PACE Board and the Department of Agriculture to 500 potential donors that might be interested in contributing to this cause: primarily commodity groups, the Kentucky Farm Bureau, livestock and grain associations, major agri-business companies that derive their income from agricultural production. These entities have a vested interest in seeing that livestock and agricultural production in general can continue to operate and prosper in the state. He said PACE has heard back from about 15 of these groups, and he does not think it will be a problem raising the \$25,000 match; he noted, in fact, that PACE's fundraising goal exceeds the \$25,000. He said he expects the private funds to be available within 30-60 days.

Chairman Damron asked if the state has people qualified to evaluate what an

Chairman Damron asked if the state has any idea how much \$800,000 is going to buy, noting that amount would be insufficient for a single horse farm. Mr. Hintze agreed this is not a lot of money, but it is a start. Ms. Jones said the mission of the PACE Board will be clearly to protect as much acreage as possible, and they will be looking for bargain basement prices to expend this money as effectively as possible. Attempted acquisition of a major horse farm would obviously be prohibitively expensive, she said, so the PACE Board is interested in reaching out to those farmers who, perhaps for hardship or retirement reasons, want to sell their land. Many such farmers are on the fringe of developing areas, and they have a choice of whether to convert their farm or not. Prior to availability of PACE moneys, the state had no mechanism to reach out to such farmers, particularly those on the best agricultural soils.

Representative Maggard made a motion that the Committee approve the contingency allocation for the project, contingent on the Department of Agriculture raising the \$25,000 in private funds.

In discussion on the motion, Senator Leeper asked if the list provided of pending offers identifies all properties being considered. Ms. Jones said that when the state learned these federal moneys were available, it had about 10 days to put together its application. Calls went out to individuals and groups around the state and this list reflects responses received in about a 48-hour period. Now the grant is available, she said, PACE will be reaching out to every county through extension offices and farm bureaus and other agriculturally-related groups to let farmers know these funds are available. She said PACE is not limited in any way to these currently identified proposals, but they will be included when PACE begins reviewing proposals to develop priorities.

Senator Leeper said the list identifies the "level of development pressure" as being "high" for each of the 8 identified properties. He said he was concerned if the PACE Board plans to go after high-level development properties for 2 reasons. First, it will be more costly so the program can protect less acreage. His second concern was about how much input local communities would have, because he can see that some landlocked communities may want development and could go head to head with PACE and its efforts to preserve agricultural lands. Ms. Jones said PACE is currently in the process of developing the criteria under which the farms will be chosen. She conceded some of the state's best soils are in areas that may be landlocked. From past PACE Board discussions, she said she expects the Board to look for the largest area of

perceived as successful, it may be more fully funded in the future. Ms. Jones said there has been widespread public acceptance and approval of the way PACE programs in other states have worked, because in the end it is very clear, through policy making, which farmlands are going to be consecrated to agricultural production in perpetuity and which are available for other uses. Actually it helps eliminate some of those conflicts between the developing interests and agricultural interests, because there is very clear direction over which lands are targeted for PACE moneys. But if a community were to decide in the future it needed that land for development, then theoretically the community could approach the PACE Board and offer to buy the farm at its agricultural value from the property owner and offer the PACE Board the fair market value for the development rights and that farm would be taken out of the PACE program.

In response to a question from Senator Leeper, Ms. Jones said the federal funds must be expended within 2 years of the date it was allocated, which was September 30, 1996. Senator Leeper asked how the Department of Agriculture plans to inform all farmers of the opportunity to participate in this program to avoid a situation where those "in the know" get in the program and the farmer who works his land hears nothing of it. Commissioner Smith said the Department of Agriculture will be the educational arm working with the PACE Board to inform farmers, working through newsletters, the Farm Bureau, the Agriculture Department's newsletter, the extension service, and placing information on bulletin boards at all county soil conservation and ASCS offices. He said in no way is this program limited to the 8 properties identified on the list, and the program is open to all. He said \$800,000 is not enough funding to span the state geographically, but he hopes the money is not concentrated in one county or area.

Chairman Damron asked what would happen if the Transportation Cabinet decided to reroute a road through a PACE-protected farmland. Mr. Hintze said a PACE easement is not necessarily a permanent set-aside. He said all road projects have environmental requirements and standards. He said this is a fledgling program with limited, though important, funds, and it is unlikely such a problem will develop. If it does, Mr. Hintze said, the PACE Board, the Agriculture Department, and the Transportation Cabinet will all sit down and come up with suitable alternatives.

Chairman Damron asked if the state would have to file condemnation proceedings against PACE as well as the landowner. Mr. Hintze said he was unsure, though if it is a federally-assisted road there would be federal standards, and he would think there was some possibility the federal dollars in the PACE program might have to be repaid.

County is unlikely to be touched by development at this time, and he suggested it might be more practical to focus on properties in immediate danger of development. Commissioner Smith said he expected that the PACE Board will take into consideration all such factors, using both federal criteria and criteria developed by the PACE Board to make that judgment. He said he is unfamiliar with the listed farms, having visited none of them, and he considered the list a minute sprinkling of available prime farmland that is threatened by economic, commercial, or residential development.

Senator Buford noted that one of the Shelby County farms includes 2,284 acres, and asked if the idea is to protect part or all of that acreage. Commissioner Smith said that list was put together very hurriedly for the grant request, so they were eager to pick up on leads from people acquainted with members of the PACE Board who knew of properties that might be available.

Senator Buford asked if there are any guidelines that might address political contributors as applicants for program benefits. Ms. Jones said the PACE program is a fledgling work in progress; the Board had not anticipated the federal funding, so it has not yet finalized the criteria for choosing farms to be purchased. She said Ms. Curry is working on a list of criteria around agricultural themes, with close proximity to land being developed as one of the highest criteria; other likely criteria include having prime soils or a long history of production. She said neither she nor any Board member she was aware of had thought of the political aspect, but it is a reasonable point and she appreciated Senator Buford's input. She said she was open to suggestions, if any Committee members had other ideas for possible criteria to be used. She said she also would be grateful if Committee members would introduce the program to their constituents around the state.

Senator Buford asked who suggested the names on the list. Ms. Jones said they took offers wherever they could find them because a list of "pending offers" was a requirement of the application. She stressed that PACE is in no way tied to the names on the list; it was merely put together as part of the application process to the federal government.

Chairman Damron asked if it would be a problem for the Committee to delay action on the project until the Finance Cabinet can provide certification of the private donations and program criteria is developed. Mr. Hintze said that delaying action would be appropriate until the concerns of the Committee can be addressed.

Ms. Curry said 15 states have PACE programs; Pennsylvania and Maryland have 2 of the oldest, which are well established and very successful. Ms. Jones apologized, saying she did not realize she would be standing in for PACE Chairman Dr. Luther Hughes today or she would have been much better prepared. However, she said, she had inadvertently misinformed the Committee on one point: under Chapter 100, Kentucky Administrative Regulations, there are standards by which these farms are to be judged; legally, there are very well-defined criteria for choosing these farms. Her suggestion to Senator Buford was if the Committee feels other criteria need to be added to the list in order to avoid any perception of conflict of interest, that is something she was sure the PACE Board would want to explore. As it stands now, PACE has very definitive criteria for choosing farms.

Representative Maggard then withdrew his motion to approve the project. He explained he is not in opposition to the project, which he expected the Committee ultimately will approve, but he believed the Committee needed time to get answers to its questions and the PACE Board needed time to raise the private donations and to get the program in place so the Committee will know exactly what it is voting on. He urged Commissioner Smith and Ms. Jones not to be discouraged, because the project "will go through."

Representative Wayne said he wanted to commend the Governor, Commissioner Smith, and Ms. Jones on their visionary efforts. He said the state should have started this right after World War II, because much of the disaster of urban and suburban development occurred then. He said he hoped the presenters recognized that their presence at today's meeting is the beginning of an educational process for legislators, and hopefully the next time the Committee will be able to give its stamp of approval.

Senator Nunnelley asked whether other PACE programs have been more inclined to purchase easements for farmlands around communities or to go out into rural settings and buy easements of residential tracts of 5, 10, or 30 acres. He asked which aspect is behind the PACE regulations: trying to stop urban sprawl or the subdivision of large farms in very rural areas where there is no sign of a new highway for an industrial park and no sewer. Ms. Jones said the philosophy is mixed and that is a very good point. After securing sources of funding, the next greatest challenge for the PACE program will be determining where the money can best be spent. She said she thought the response would be in support of both approaches. It depends on the individual

proposed by the President of the Farm Bureau. Other public members include the Commissioner of Agriculture, the Dean of the University of Kentucky College of Agriculture, the Secretary of the Natural Resources and Environmental Protection Cabinet, and the Chair of the Soil and Water Conservation Commission. (KRS 262.906(2)(c) provides that no more than 4 of the private directors shall be from the same political party.)

Chairman Damron asked Mr. Hintze to work with Committee staff in finding answers to the questions raised by Committee members, saying he hoped the project could again be considered within the next several meetings.

The final project submitted involved a proposed federally-funded cost overrun for the Interactive Distance Learning Equipment project at Morehead State University (MoSU). The project was initially authorized as a lease/purchase by the 1994 General Assembly at \$1,500,000 in restricted funds. (At the June 1995 Committee meeting, the Finance and Administration Cabinet reported its approval of MoSU's request to acquire the Equipment by purchase rather than lease/purchase. This was accomplished, in part, by use of \$400,000 in federal funds that MoSU received as part of the Kentucky Telelinking Network Star School project.)

Mr. Hintze said the report today is that federal funds have been acquired to assist in the effort and to adjust the scope of the project and extend the number of sites that can be provided for Distance Learning. The project, as now constituted, has a scope of \$1,650,000, which is a 10% increase. The funding composition is now \$877,000 in restricted funds and \$773,000 in federal funds. With the additional funds, MoSU will be able to serve 4 Distance Learning classrooms on campus and additional sites in Ashland, Prestonsburg, Jackson, West Liberty, and Whitesburg.

Representative Maggard made a motion to approve the scope increase for the project. The motion was seconded by Senator Leeper and approved by unanimous voice vote.

Chairman Damron said Information Items were provided: the quarterly status report on EMPOWER Kentucky and several news articles. He said the Committee's normal fourth Tuesday meeting date falls in November on the 26th, 2 days before Thanksgiving, and will be so scheduled without objection. He said, if possible, the December meeting will be scheduled during the anticipated Special Session to save